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Office of Juvenile Justice and Delinquency Prevention

Victim-Offender Mediation in the Juvenile Justice System

Restitution Education,
Specialized Training &
Technical Assistance Program

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The Restitution Education, Specialized Training, and Technical Assistance Program (RESTTA) is designed to promote the use of restitution in juvenile courts throughout the United States. Supported by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, RESTTA is a cooperative effort involving the National Center for State Courts, the Pacific Institute for Research and Evaluation, and the Policy Sciences Group of Oklahoma State University. The Juvenile Justice Clearinghouse at the National Criminal Justice Reference Service operates the National Restitution Resource Center in support of the RESTTA program.

Victim-Offender Mediation in the Juvenile Justice System

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Foreword

Over the past decade, Americans have been paying more attention to the needs of crime victims—to their right to be included at various stages of the justice process and to be compensated in some way for the harm they have suffered. Laws are changing, and victim services are now a common feature of the criminal justice system.

OJJDP's Restitution Education, Specialized Training, and Technical Assistance (RESTTA) Program has played a part in encouraging similar trends in the area of juvenile justice. The RESTTA program has facilitated information sharing among an ever larger number of juvenile restitution programs, many of which now have victim-offender mediation components.

Although victim-offender mediation is a relatively new practice in juvenile justice, it is a particularly apt one. Juvenile courts were created out of the belief that young people who have broken the law should be helped to understand what they have done and given the opportunity to start over on the right path. When young offenders face the person they have harmed and work out a way to make amends, they take an important step toward responsible adulthood.

This monograph sheds light on how—and how extensively—victim-offender mediation is being used in our juvenile court system. Restitution program managers considering adding a victim-offender mediation component to their programs should find the information particularly useful.

Robert W. Sweet, Jr.
Administrator

Preface

One of the assumptions underlying the belief that restitution is a therapeutic form of treatment for juvenile offenders is that it allows them to correct the psychological imbalances between themselves and their victims that their acts create. While making restitution is central to this process, the effect is magnified when the offender meets the victim face-to-face and is confronted with the consequences of the crime, the victim's fear, loss of security, and sense of personal violation.

Due to the growth of restitution as well as the victims movement, the use of victim-offender mediation is expanding rapidly: about 75 percent of the mediation programs in existence today have begun in this decade. Increasingly, victims are overcoming their reluctance to meet with offenders and are using these meetings to vent their frustrations (under controlled conditions) and to negotiate for the payment of equitable restitution.

This research report—one of a series of monographs prepared under the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) Restitution Education, Specialized Training, and Technical Assistance (RESTTA) program—is the most comprehensive document on the use of victim-offender mediation yet published. The authors, Stella Hughes and Anne Schneider of the Policy Research Group, Oklahoma State University, express their appreciation to all of the respondents to their survey; to other members of the RESTTA group who offered ideas and suggestions; to RESTTA's program managers at OJJDP, Paul Steiner and Peter Freivalds; and to the editors at the Juvenile Justice Clearinghouse.

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INTRODUCTION

Criminal and juvenile justice systems in the United States have operated under the principle that crimes are committed against the State—not those who actually suffered the loss or consequences—and society is the "victim" of delinquent acts. The offender expunges a crime by "paying a debt to society" (Schafer 1976). This approach often leaves the victim feeling abused and resentful; and if the offender must serve a lengthy prison sentence, he or she may become embittered as well.

In recent years, some effort in the United States has been spent to consider the rights of victims and to supply some services to this often neglected group (Galaway and Hudson 1981; McDonald 1976). In addition, the juvenile justice system has increasingly emphasized restitution as a part of the treatment or sanction for offenders. Schneider et al. (1981) found that 86 percent of respondents in a national survey of juvenile courts used some form of payment to victims, and recent research on this approach indicates some success. Schneider (1986) found recidivism rates in four programs studied to be lower, two of them significantly so, in those using restitution instead of detention, counseling, or probation.

Victim-offender mediation is another movement closely allied with restitution that is designed to provide victim a greater voice in the justice process. A number of programs using this concept have been implemented, many modeled after the Victim Offender Reconciliation Program (VORP) started in Canada during the mid-1970's (Umbreit 1985). The purposes of the original VORP project were the following:

- To provide an alternative method of dealing with crime.
- To allow victim and offender an opportunity to reconcile and mutually agree on restitution.
- To use a third party to mediate and facilitate reconciliation.
- To deal with crime as a conflict to be resolved (McKnight 1981).

Mediation as an alternative sanction is not a new concept but has been used for centuries all over the world. Mediation has been used recently in U.S. adult courts, partly in response to overloaded court dockets and disenchantment with such practices as plea bargaining (Kerstetter 1977; Kole 1973; Miller 1973) and is now beginning to appear in juvenile courts as well.

Research on mediation in the juvenile justice system

Little is known of the extent of mediation in juvenile courts, of how these programs are designed, what problems they have, or whether they are effective. Most research has involved indepth studies of a few programs or studies based on sampling with return rates so low that little confidence can be placed in the conclusions. Nevertheless, some descriptions of existing programs have been useful.

A national survey conducted by the Prisoners and Community Together (PACT) Institute of Justice in Valparaiso, Indiana, located 32 programs that provided some form of victim-offender mediation (Umbreit 1986). The Institute has published a directory of 47 programs in 17 States (13 in developmental stages) that use mediation (Gehm 1986). These programs averaged 76 cases (2,195 total cases), with 63 percent resulting in a meeting between victim and offender. Both felonies and misdemeanors were represented; 61 percent were felony offenses.

The more comprehensive studies of programs have contributed to the pool of information on victim-offender mediation. Wright (1985:643) explored perceptions of possible difficulties with mediation in a survey of 14 project leaders across the United States and Canada. These difficulties included attitudes toward reparation (Is the process or the amount more important?), the relationship of mediation to the existing system (Is the State or the injured party the victim?), and fairness to both victim and offender (Are these compatible?). The author identified two primary areas of

concern: "a need for an agreed order of priorities among goals of those working with victims and offenders" and "research and regular monitoring, to see whether and how these principles can be put into practice."

Coates and Gehm (1985:24) conducted an indepth examination of VORP programs for both juveniles and adults in six Indiana and Ohio counties and found referrals to be primarily first offenders whose crimes were in the midrange of offense seriousness; participating victims represented a wide range of ages and educational levels. Both offenders and victims expressed a fair amount of satisfaction with the process, although offenders appeared more satisfied than victims. Most had worked out a contract involving restitution. The authors concluded that the concept "has considerable potential as an alternative sanction."

Dittenhoffer and Erickson (1983:344), in assessing two Canadian VORP's, came to a less favorable conclusion. They found that judges and prosecutors were not particularly interested in either alternatives to incarceration or reconciliation of victim and offender, thus diluting some of the objectives of the project; and they concluded that VORP was "only partially obtaining its goals."

Purpose

This monograph presents findings of a survey that attempted to fill some of the gaps in the understanding of how mediation is used in the juvenile court system and to give a more representative picture of the organization of various victim-offender mediation projects. The purposes of this monograph are as follows:

- To describe the operations of victim-offender mediation programs across the country.
- To examine mediation goals and perceptions of mediation effectiveness as reported by jurisdictions with mediation programs and those without.
- To compare perceptions of the effectiveness of mediation to those of restitution, probation, and incarceration.
- To describe any differences between programs in larger and smaller counties, older and newer programs, and those programs that mediate large and small numbers of cases.

SAMPLING PROCEDURE

Surveys eliciting program information were mailed to 342 organizations across the United States known to use restitution or mediation.[1] A total of 240 organizations responded, yielding a response rate of more than 70 percent. Most of the programs surveyed were part of the juvenile justice system; therefore, responses, unless otherwise noted, reflect data pertaining to juveniles only.

To ensure as large a return rate as possible from programs using mediation, both purposive and random sampling techniques were used.[2] Of the organizations responding, 79 had a victim-offender mediation component, 3 no longer offered such programs but had done so in the past, and 158 had no such program. Responses came from all but 3 States in the continental United States (New Mexico, North Dakota, and West Virginia); 31 States had mediation programs.[3] Jurisdictions without victim-offender mediation were studied for comparison.

Counties of all sizes, ranging in population from 3,000 to 2 million, had mediation programs. More than 25 percent were in counties of less than 50,000 residents, and another 25 percent were in areas of more than 400,000. The median population of counties with programs was approximately 140,000.

The oldest program was started in 1965, and five programs were less than 6 months old. Almost 18 percent began between 1965 and 1979, approximately 44 percent between 1980 and 1984, and around 39 percent between 1985 and 1987. Most mediation programs were rather small, with 25 percent mediating fewer than 10 juvenile cases during 1986 and more than half reporting fewer than 50 cases. The research, however, identified some rather large programs, as 21 percent reported having more than 200 cases.

CHARACTERISTICS OF PROGRAMS

Nine major organizational dimensions characterize the programs, according to the survey results. These dimensions do not reflect all organizational aspects of such programs but some that must be considered when implementing victim-offender mediation:

- Program purpose and goals.
- Program organization/administration.
- Program referrals.
- Target population.
- Mediators and mediation.
- Characteristics of the final contract.
- Support for the mediation program.
- Program funding.
- Role of evaluation.

Program purpose and goals

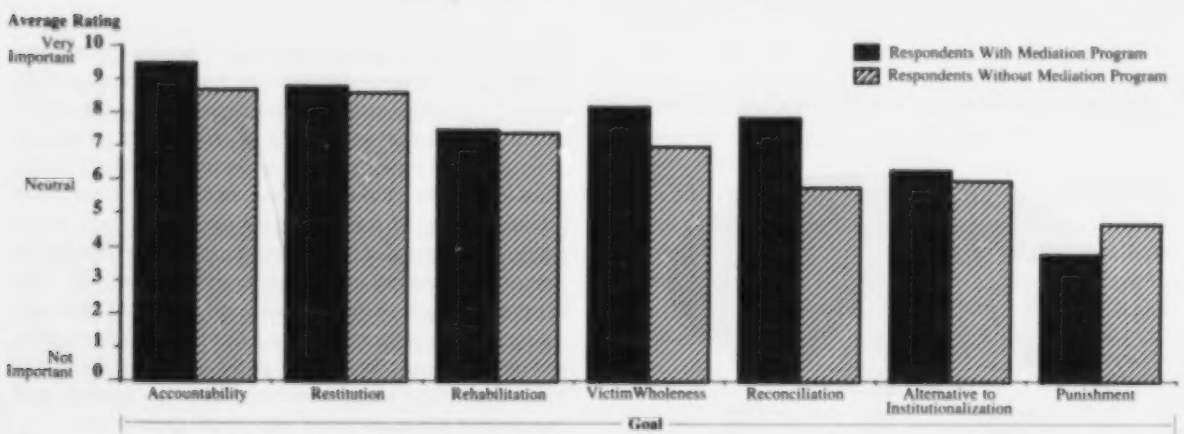
Identifying the purpose and goals of a program is important because these will guide a program's direction. Programs may range from those that are totally offender-oriented to those expressing concern mainly for the victim. Survey respondents rated the importance of each of the following possible goals of victim-offender mediation: punishing the offender, providing an alternative to institutionalization, rehabilitating the offender, holding the offender accountable, reconciling victim and offender, providing restitution to the victim, and making the victim whole.

These were marked on a 10-point scale ranging from "not important" to "very important" with "5" as the neutral position.

Respondents with mediation programs probably had more experience identifying and developing program goals, and working with mediation may have changed their perceptions of what is desirable for such programs. To see if any perceptual differences existed, mediation program and nonprogram responses on goal statements were compared (see figure 1).

For all respondents, holding the offender accountable was considered the most important goal; respondents with mediation programs scored it 9.5 on the 10-point scale, and those without programs scored it 8.7. In emphasizing this, one respondent commented, "Being accountable in and of itself is a value whether or not the person later commits another criminal act." The next most important goals were as

Figure 1. Mediation Program Goals



follows (scores of respondents with programs are given first, followed by scores for respondents with no programs):

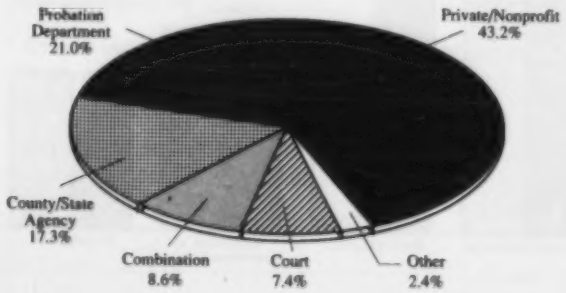
- Providing restitution to victims (8.8, 8.6).
- Rehabilitating the offender (7.5, 7.4).
- Making the victim whole (8.2, 7.0).
- Reconciling victim and offender (7.9, 5.8).
- Providing an alternative to institutionalization (6.3, 6.0).

Punishing the offender received the lowest rating, with a score of 3.8 for program respondents and 4.7 for nonprogram respondents. Some differences existed between the ratings of respondents who had experience with mediation programs and those who did not. With the exception of punishing the offender, respondents with program experience rated all of the goals higher, particularly reconciling victim and offender, holding the offender accountable, and making the victim whole.

Program organization/administration

Although a few programs were stand-alone mediation units, most were part of larger organizations. Administratively, these programs were largely governed by private, nonprofit organizations (43.2 percent), but some were under the direction of probation departments (21 percent), State or county agencies (17.3 percent), or the court (7.4 percent)—see figure 2. Twenty-seven programs responded that they were modeled directly after the VORP concept, and indications were that others used similar elements.

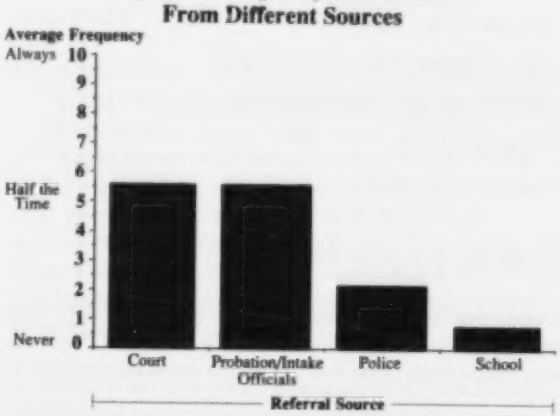
Figure 2. Administrators of Mediation Programs



Program referrals

As illustrated in figure 3, referrals to the programs came from the court or from probation/intake officials (both had mean scores of 5.6, representing just more than half the referrals). Less frequently reported were police referrals (2.1) and school systems (0.8). Also mentioned by a few were attorneys, clergy, the victim, and individuals in the community.

Figure 3. Frequency of Referrals From Different Sources



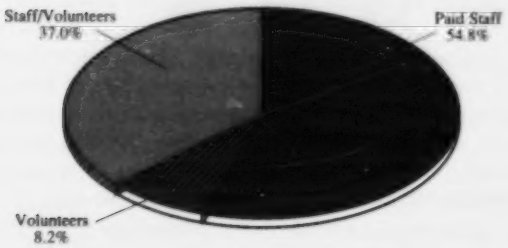
Target population

Although some programs placed no restrictions on the types of cases they considered appropriate for mediation, most (80 percent) reported that they excluded some kinds of offenders or offenses. Violent offenses or offenders were mentioned most often; but some programs also excluded sex offenders; chronic offenders; those with drug, alcohol, or mental health problems; and the retarded. Also mentioned were sociopathic offenses, cases of child abuse, offenders showing no remorse or denying involvement, and victims who were extremely angry. A few respondents indicated that they mediated only property offenses or minor misdemeanors, and others set a monetary limit on the amount of damage or loss. One respondent, however, said the agency took "whomever the court orders into the program."

Mediators and mediation

Crucial to any mediation program are those individuals who meet with the victims and offenders to facilitate mediation objectives, including an acceptable agreement. These facilitators may be regular program employees, but often they are trained volunteers. A total of 54.8 percent of programs responding relied on program staff alone for mediators, 37 percent used a combination of staff and volunteers, and the remaining 8.2 percent used only volunteers (see figure 4).

Figure 4. Who the Mediators Are

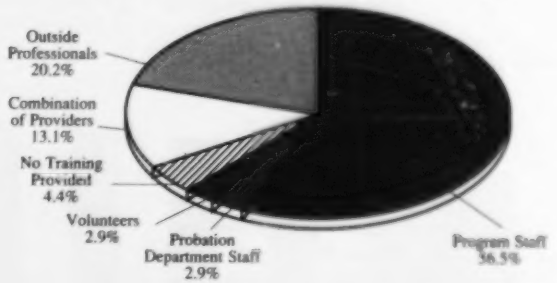


Programs also varied greatly in the number of mediators used. Thirteen programs (17 percent) reported having only one mediator, and 25 (32 percent) had fewer than three. At the other extreme, six programs (8 percent) had 50 or more mediators, and one had more than 100. The median number was five.

In training mediators, more than half (56.5 percent) used program staff, some used outside professionals (20.2 percent), and a few used volunteers who had been mediators (2.9 percent) or probation department staff (2.9 percent). Several used a combination of training sources (13.1 percent)—see figure 5.

Four programs indicated that they required no mediator training at all. One respondent said that mediation was done by "trial and error," and another said training was "on the job." At the other extreme, two programs cited 80 hours of training. The median amount of training time was 20 hours, with 9 hours of followup or inservice training.

Figure 5. Providers of Mediation Training



Only 11 programs (5 percent) required mediators to be certified, but a number of other qualifications were cited. Some had educational or professional requirements (having a college degree or being a probation officer); others required a certain score on a written exam or experience in working with youth; and several listed such attributes as good listening skills, commitment to the mediation philosophy, and patience.

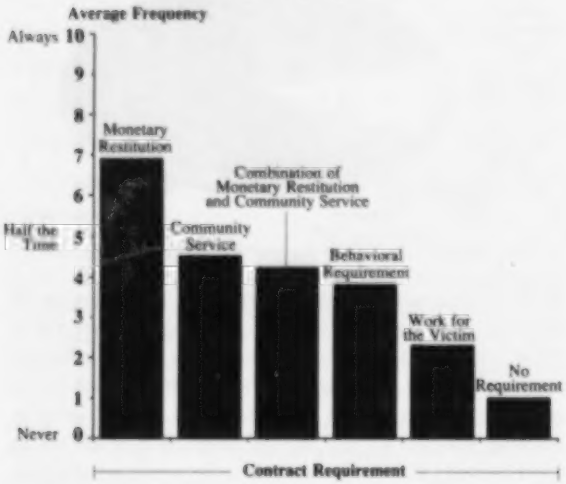
Mediation sessions varied in length from 10 minutes to 2 hours, although most lasted about 1 hour. Programs usually held only one mediation session per case, but four respondents indicated that in at least half the cases, more than one session was held.

Characteristics of the final contract

Many observers believe that a crucial part of a successful mediation session is the final contract (Folberg and Taylor 1984), which should be fair to both the victim and the offender. The contract can range from a victim-oriented decision to one that primarily considers the offender, and it may reflect the goals discussed earlier.

In a majority of programs (80 percent), respondents indicated that the parties involved were almost always able to agree on a contract. The most common contract included monetary restitution to the victim (an average score of 6.9 on the 10-point frequency scale, or occurring in approximately 7 out of every 10 cases)—see figure 6. Less often used were

Figure 6. Frequency of Inclusion of Various Contract Requirements



community work service, with a score of 4.5; a combination of monetary restitution and community service, 4.2; and behavioral requirements for the offender, such as school attendance or counseling, 3.8. One respondent said that the contract required the offender to achieve certain school grades. Working for the victim occurred under the fewest contracts (approximately 2.3 occurrences out of every 10 cases). Twenty-nine programs reported that contracts sometimes required no activity on the part of the offender; and in two such programs, this was the case more than half the time.

In 62 percent of the programs, the judge never overruled the final contract, but in one program the judge was reported to do so half the time. Most thought that the contract usually was neither too easy for the offender (a score of 1.5, or occurring 1.5 times in 10 cases) nor too difficult (a score of 1.7). Victims reportedly did not often lie about the offense (a score of 2.0) nor were overly concerned with punishment (2.4).

Almost all programs (91 percent), monitored contracts to ensure that the offender completed all requirements. As a general rule, either mediation staff (32 percent of cases) or probation department staff (33 percent) performed the monitoring. In 25 percent of cases, a combination of staff, probation, and the mediator performed the monitoring; in four programs (6 percent), the mediator monitored all contracts.

Support for the mediation program[4]

Mediation programs rely on support from organizational sources in the juvenile justice system, various groups in the community, and families of offenders. Some programs derive funding from the community. Others employ volunteers or various types of aid from civic, religious, or other organizations. In addition, programs need the support of many other agencies or groups that deal with delinquent youth.

The support of juvenile court judges was considered to be the most important, with a score of 9.4 on a 10-point scale of importance. This was followed by support of parents or other family members (a score of 8.4), State juvenile service providers (7.4), city/county commissioners (7.3), public defenders (7.2), alternative juvenile program providers (7.1), law enforcement officials (6.9), prosecutors (6.7), local service organizations (6.3), and State legislators (6.0)—see figure 7.

As illustrated in figure 8, the amount of support received from each of the above generally followed the same pattern, although importance of support from juvenile court judges, family, and commissioners was rated somewhat higher than actual support. Alternative service providers and service organizations, on the other hand, were rated somewhat lower in importance than in actual support. Overall, juvenile court judges provided the most support.

Most programs (64 percent) received no assistance from community groups in the form of volunteer mediators, funding, staff, or training. Those that received this assistance most often were provided funding (18 programs) or volunteer mediators (16 programs). Three respondents reported that the community supplied mediation training; and in another three, staff members from community organizations were used. Some programs were also able to get office space in local churches, clerical help from senior citizens, publicity, and other such assistance.

Figure 7. Importance of Various Sources of Program Support

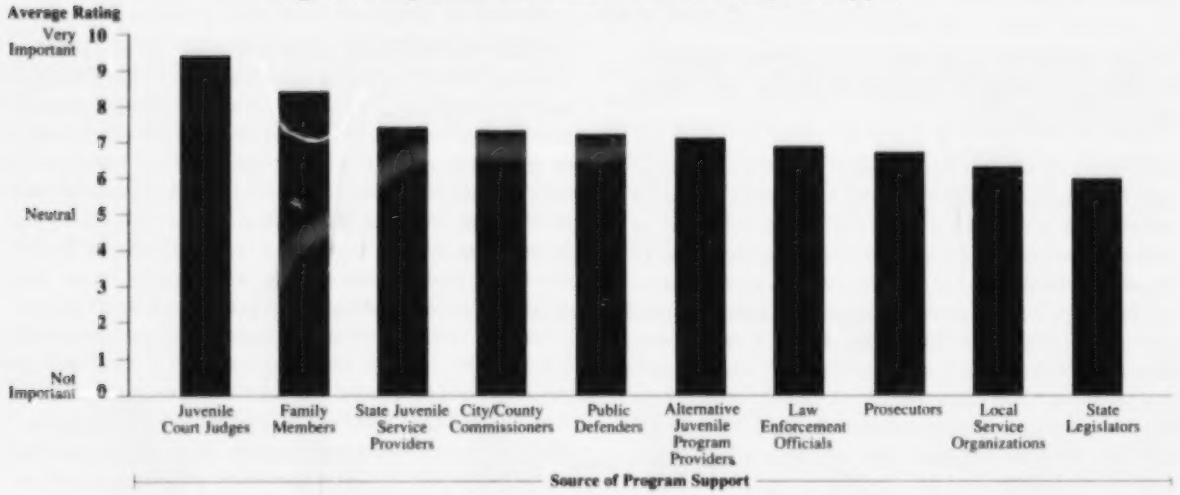
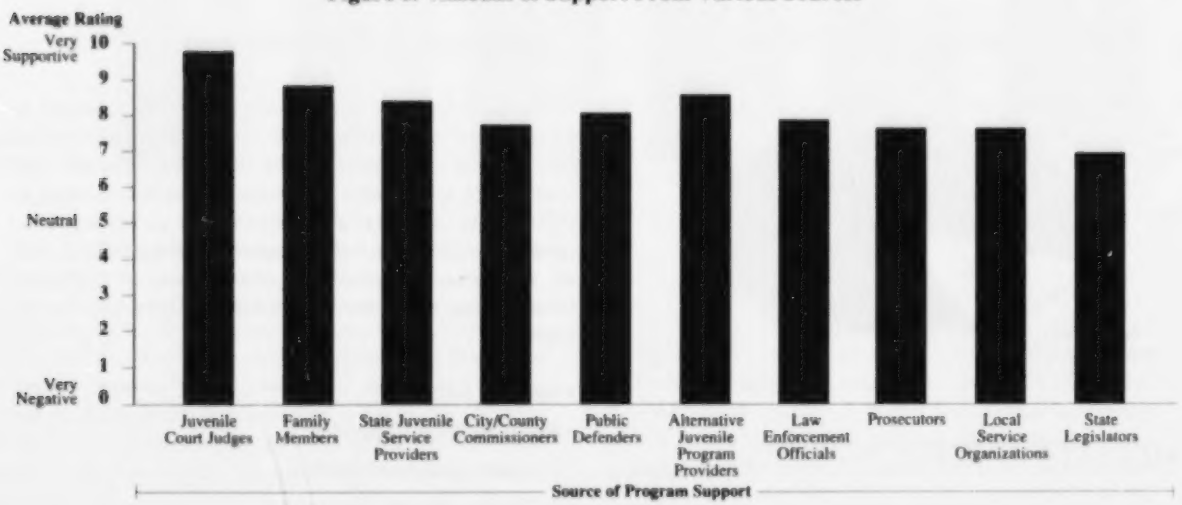


Figure 8. Amount of Support From Various Sources



Program funding

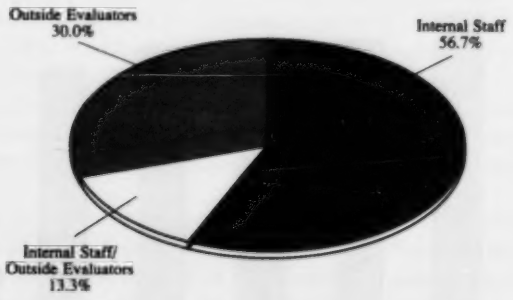
Financial support for mediation programs came from a variety of sources ranging from private donations to Federal grants. Local, State, and Federal government funds appeared to be the major source of income for most programs, but many were funded by more than one agency or group. Local churches, businesses, and service organizations were frequently mentioned.

Role of evaluation

Periodic evaluation of program effectiveness is important for assessing a program, maintaining funding, and making any necessary changes.

Less than half of the respondents (41 percent), however, indicated that their programs had been evaluated during the preceding 5 years. Nineteen of these had conducted an evaluation every year (24 percent of all programs), and 11 had done so irregularly (14 percent). Most evaluations were conducted by internal staff (56.7 percent), although some used outside evaluators (30 percent), and a few used a combination of both (13.3 percent)—see figure 9. When outside evaluators were used, they tended to be university or private institute personnel, private consultants, or VORP/PACT agencies. Program personnel appeared generally satisfied with the evaluations and gave evaluators a score of 7.2 on a 10-point satisfaction scale that ranged from "very dissatisfied" to "very satisfied" with 5 being "neutral."

Figure 9. Who the Program Evaluators Are



MEDIATION EFFECTIVENESS

For victim-offender mediation to succeed, it is important that not only those involved with mediation programs but the public also believe in such programs and their ability to meet the needs of victims and offenders. As an alternative dispositional system, mediation must offer something that more traditional correctional strategies lack, and it must be acceptable to those who use and support it.

Perceptions of program effectiveness

To gain more information and understanding of mediation concepts, the survey asked for perceptions of the effectiveness of mediation programs as a whole, and respondents working with mediation were asked to rate the effectiveness of their jurisdiction's program. Most of the latter group believed that the victim-offender mediation program in their jurisdictions had been quite effective, and they gave these programs an average score of 7.9 on the 10-point effectiveness scale. Respondents working with programs were also well satisfied with individual program components and believed that victim interests had been served (a score of 8.5), that offender interests had been served (8.4), and that the mediators had performed well (8.5). One respondent, however, commented, "potential is great but funding is needed." Victim-offender mediation programs in general received an overall score of 7.1, but respondents whose programs included mediation components viewed them more favorably (a score of 8.4 compared to 6.4 for those without programs).

Comparisons of dispositional alternatives

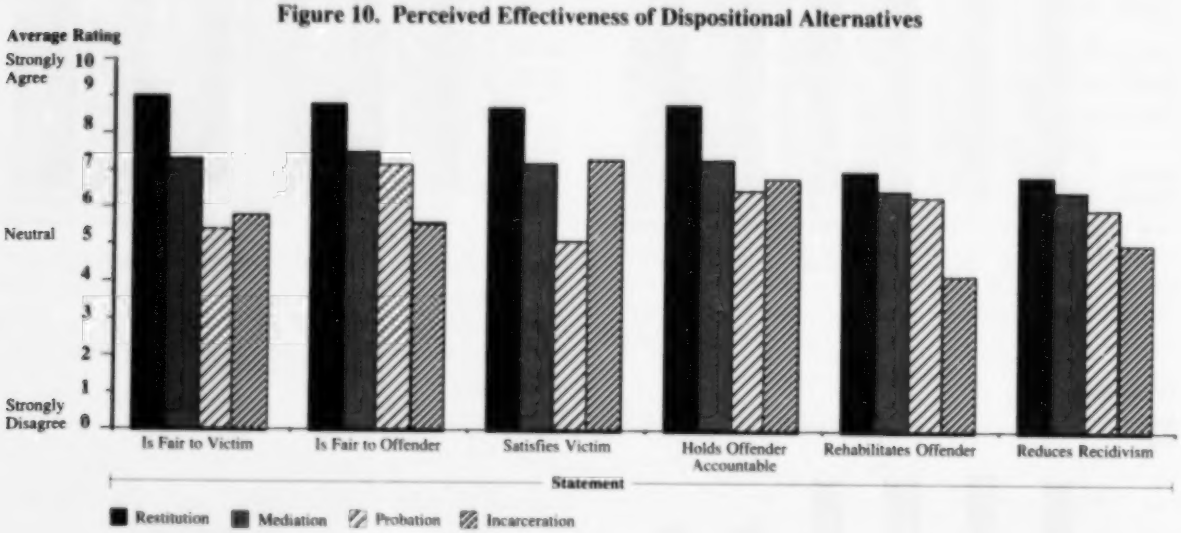
Since mediation is a fairly recent correctional concept in juvenile justice, it is interesting to compare perceptions of the effectiveness of this method with restitution alone and with some of the more traditional forms of disposition, such as probation or incarceration. Therefore, the survey asked respondents to indicate their agreement or disagreement with six statements concerning the effectiveness of probation, incarceration, restitution, and mediation. These included the following:

- Reduces recidivism.
- Rehabilitates the offender.
- Increases victim satisfaction.
- Holds the offender accountable.
- Is fair to the offender.
- Is fair to the victim.

Respondents scored the items on a 10-point scale ranging from "strongly disagree" to "strongly agree," with 5 as the neutral position.

In comparing responses to the questions on effectiveness for each of the dispositions (restitution, mediation, probation, and incarceration), respondents gave restitution the highest scores on all items (see figure 10). This is logical because restitution organizations were a primary sampling source. For most of the statements, mediation received the second highest scores (another logical response). On the other hand, incarceration received a higher score than mediation regarding the effectiveness of the two dispositions in increasing victim satisfaction.

Figure 10. Perceived Effectiveness of Dispositional Alternatives



Probation, as a whole, received lower scores than either restitution or mediation, a rather unexpected finding since probation departments accounted for the second largest group of respondents. Items relating to the victim (fairness to the victim and increasing victim satisfaction) received the lowest probation scores, 5.4 and 5.0, close to the neutral position.

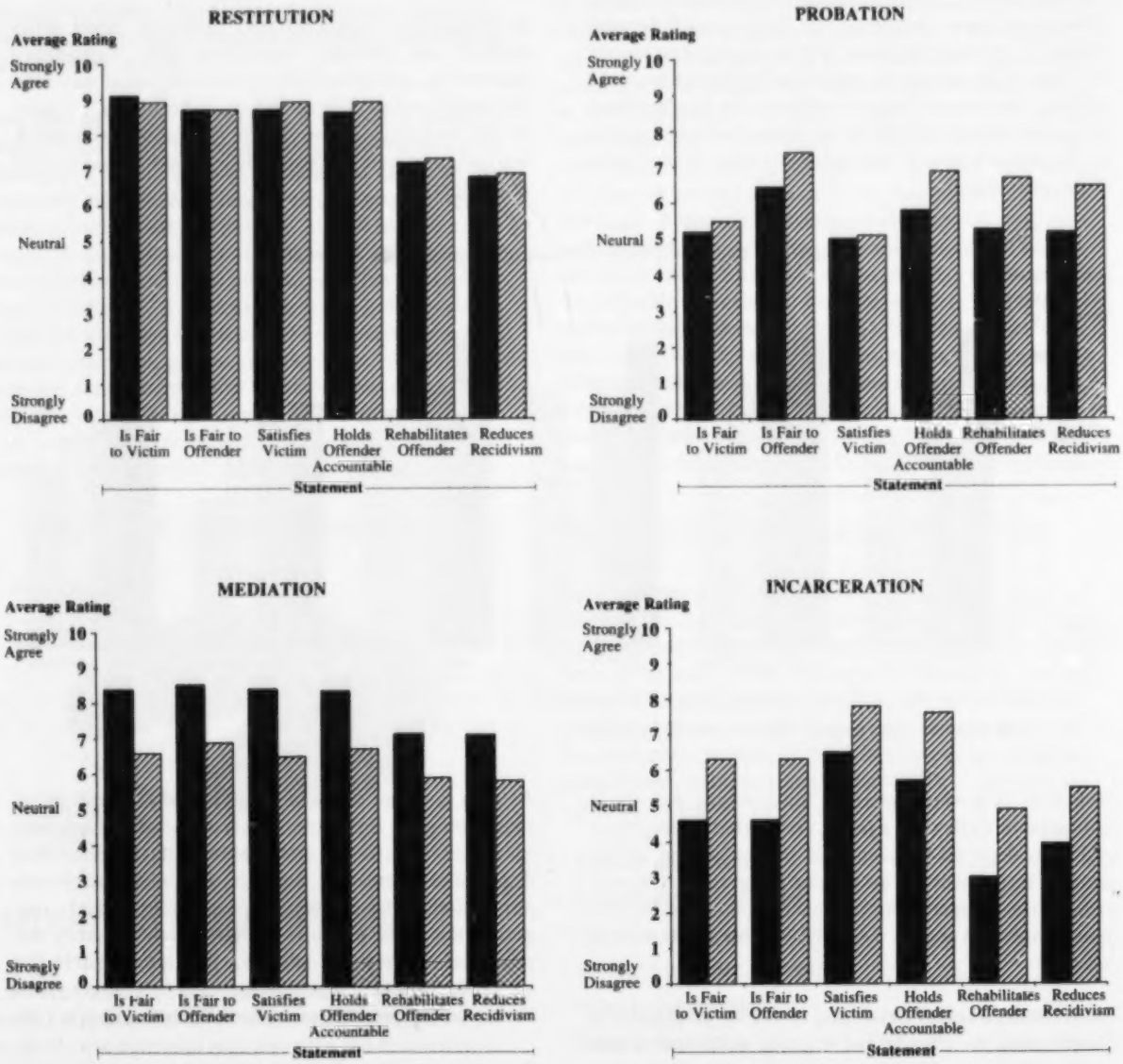
Incarceration was also viewed less favorably, particularly in rehabilitating the offender and reducing recidivism (scores of 4.2 and 5.0, respectively). Incarceration ranked just above the neutral position in its fairness to both the victim (5.8) and the offender (5.7).

Involvement in victim-offender mediation could affect opinions and attitudes concerning other dispositional alternatives, and those working with mediation may view restitution, probation, or incarceration differently. To examine this assumption, answers from respondents with mediation programs were compared with those who had no such components.

As seen in figure 11, both program and nonprogram respondents gave restitution high scores; and for each item, answers between the two groups were similar. With the other dispositional alternatives, however, respondents' answers in jurisdictions with mediation programs differed greatly, suggesting that involvement in mediation may influence dispositional opinions and attitudes. It is also possible that mediation personnel are working with this dispositional alternative because they viewed it differently to begin with.

Respondents with mediation programs gave more favorable answers to all of the items concerning the effects of mediation, and differences were fairly large. Both gave highest

Figure 11. Perceived Effectiveness of Dispositional Alternatives According to Program Involvement



scores to mediation being fair to the offender (8.5 for those with programs and 6.9 for those without). This was followed by mediation being fair to the victim (8.4 and 6.6), increasing victim satisfaction (8.4 and 6.5), holding the offender accountable (8.3 and 6.7), helping to rehabilitate the offender (7.1 and 5.9), and reducing recidivism (7.1 and 5.8).

Attitudes toward probation and incarceration differed greatly, with ratings from respondents involved in mediation programs consistently lower than those from respondents without such experience. In addition, many of the scores of program respondents were near or below the neutral position, indicating a more negative attitude toward some of the items (such as reducing recidivism, rehabilitating the offender, increasing victim satisfaction, and holding the offender accountable).

PROGRAM DIFFERENCES

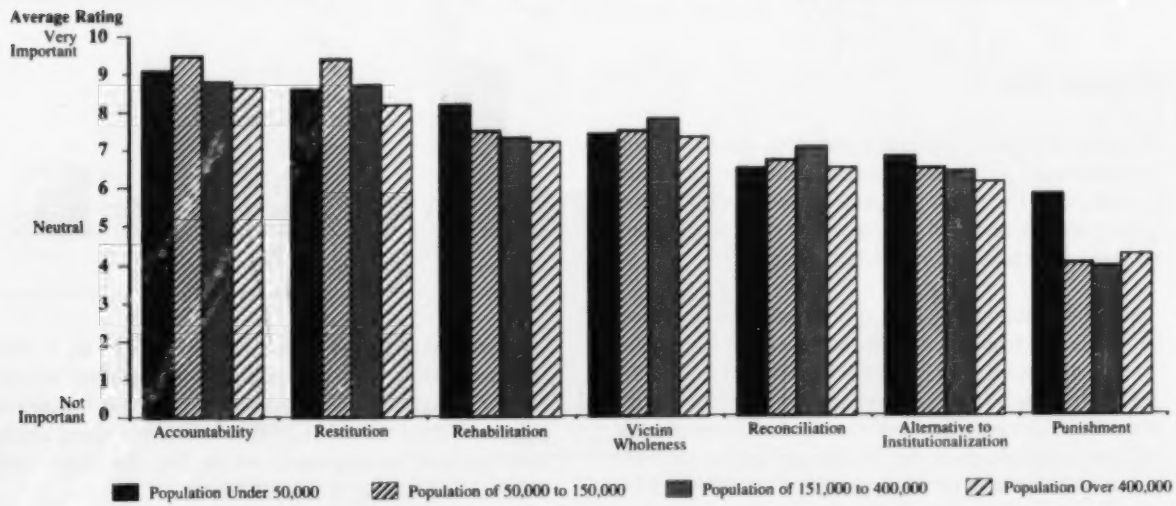
Victim-offender mediation programs were found in counties of all sizes. They ranged in age from programs that had been operating for more than 20 years to those that had been functioning less than 6 months; and they were both large and small, with some mediating more than 200 cases a year and others fewer than 10. Despite these differences, however, programs were found to be more alike than dissimilar in structure, and few significant differences were noted among programs from counties of various population sizes, in older or younger programs, or in programs of different sizes. In general, larger counties had larger programs; that is, they mediated more cases; older programs tended to be larger.

County population

As a whole, smaller and larger counties reported similar goals, and most differences were minor (see figure 12). The smaller counties were more inclined to emphasize holding the offender accountable, and the smallest counties were more interested in punishing the offender. The largest counties placed less emphasis on providing restitution.

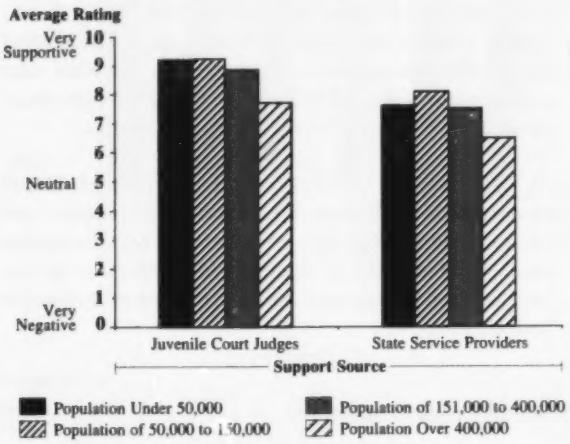
As far as program characteristics were concerned, county size made little difference. Programs in large counties were administered in much the same manner as those in smaller areas, and there were no significant differences in the way they used and trained mediators or the elements included in final contracts.

Figure 12. Mediation Goals by Size of County Population



The amount of support received from the various groups was about the same regardless of county size. Programs in the largest counties, however, reported receiving somewhat less support from juvenile court judges as well as from State juvenile service providers (see figure 13). On the other hand, respondents in larger counties considered the support of juvenile court judges to be less important than did respondents in smaller areas.

Figure 13. Amount of Support From Juvenile Court Judges and State Juvenile Service Providers, by County Population



Program size

Programs of all sizes appeared to stress the same goals, and few differences were noted in program administration or use of mediators. The larger programs tended to receive more police referrals, and both the largest and smallest programs received more referrals from school systems.

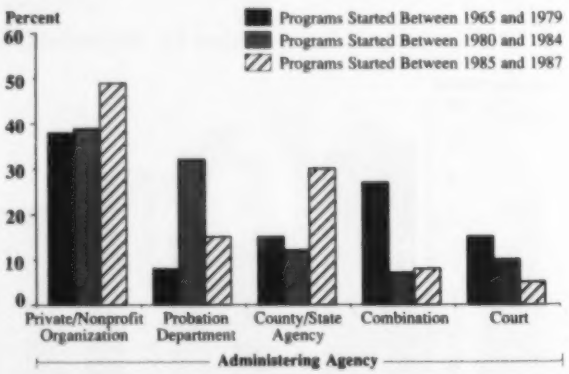
Some differences were noted in final mediation contracts. Contracts that required the offender to work for the victim were less prominent as programs became larger, and this was also true to a lesser extent regarding monetary restitution. The largest programs were more inclined to impose behavioral requirements on the offender and smaller programs to use contracts with no requirements or activities at all.

The largest programs were more likely to use mediation as an alternative to probation, and larger programs were more apt to have been evaluated. Programs that mediated more cases reported that they received more support from State legislators.

Age of program

More differences were noted between older and newer programs than with either county size or program size. This was particularly true of the earliest programs, those developed before 1980. On the whole, older programs tended to be larger, and newer programs tended to develop in smaller counties. There was a trend as well for newer programs to be administered more often by private/nonprofit organizations and less often by the court (see figure 14). Newer programs more often had written policies and procedures. Mediator usage and training differed little according to program size. The newest programs were somewhat more apt to use training manuals, but this is logical as training manuals have become more readily available.

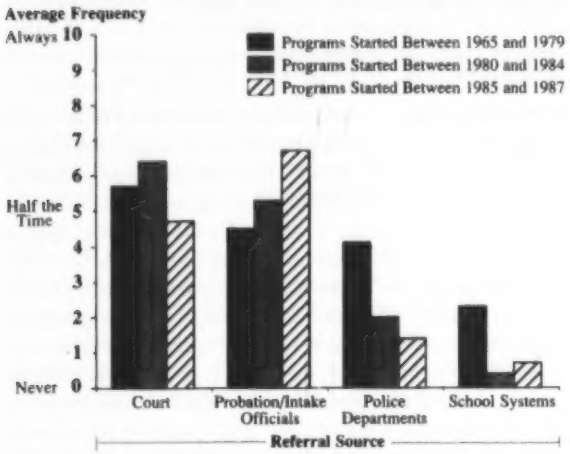
Figure 14. Administrator of Mediation Program, by Age of Program



For the most part, few differences were apparent in how older and newer programs responded to the importance of the various goals. Two exceptions were that the newer programs, those started in 1980 or later, were significantly more inclined to emphasize reconciling the victim and offender and making the victim whole.

Referrals to the program came primarily from the same sources regardless of program age (see figure 15). Exceptions were that programs implemented before 1980 received significantly more referrals from school systems, and there was a slight trend for the same group to receive more police referrals. In addition, probation referrals appear to be increasing somewhat.

Figure 15. Referral Sources by Age of Program

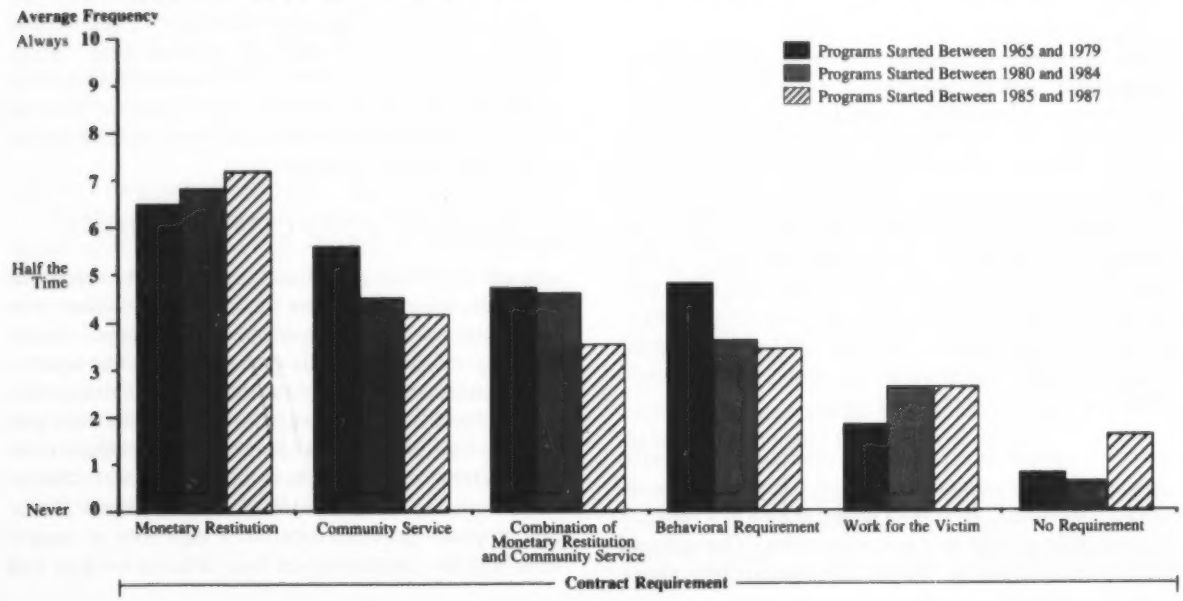


The elements of final contracts were similar in older and newer programs; however, the programs started since 1985 more often required no activities on the part of the offender (see figure 16).

Programs started before 1980 more often used mediation as an alternative to probation. Respondents gave this option an average score of 5.6, whereas the average score for the other alternatives was 2.6.

Respondents from older programs considered the support of alternative juvenile program providers to be more important and gave them an average score of 8.5, compared with 3.4 for the other providers. Respondents from older programs also considered the State juvenile justice service providers to be more important than did those from new programs, which mediate fewer cases.

Figure 16. Frequency of Inclusion of Various Contract Requirements, by Age of Program



PROBLEMS WITH MEDIATION PROGRAMS

The survey asked respondents to cite some of the major problems with their victim-offender mediation programs and to identify solutions that had been successful. Problems most often mentioned were lack of staff or volunteers ("too many youth and not enough staff"); these problems had few solutions. One respondent indicated some tasks were being reduced by "developing computer programs to monitor monetary restitution"; another said that the program accepted only limited referrals. Closely related was lack of funding, and again, fewer solutions than problems were cited. One respondent mentioned getting a new grant, and another, increased publicity. Problems with victim cooperation were also cited—getting victims to participate, attend meetings, or file claims. Some scheduled meetings on weekends or evenings to enhance participation.

A number of respondents indicated that collecting restitution was a problem, and some youth were unable to pay amounts that were too high ("it sets the juvenile up for failure"). One program reportedly operated a newspaper recycling program as a way for juveniles to earn restitution money.

Lack of awareness or cooperation from the court, probation departments, and the community was often mentioned. "Certain ones view VORP as an intrusion on their turf. Solving this by quiet diplomacy and persistence hasn't always worked." Another commented, "We invited the director, the juvenile judge, and the members of the executive committee to attend mediation; none ever did." One respondent indicated that the program had gained acceptance by "clearly outlining our philosophy and intent (consistent with court counselor intent for intervention) and by providing regular reports on success cases and making the program visible," and another by "placing more 'system' people on [the] Board of Directors."

Several respondents reported that referrals were insufficient, making the program underused. These problems included "convincing the district judges to try a new program and still make it seem as if it was their idea." One reported solution involved taking offenses other than property crimes. Other program personnel had difficulty in getting those who had participated in mediation training to actually take cases—"They went through training and then got 'cold feet.' The first one was the hardest." One solution for this problem was to conduct "20 additional hours of training, focusing on team building, contacting victims, screening cases, and coordinating with non-mediator-trained staff."

AREAS OF EXCELLENCE

The survey asked for information about the areas in which respondents believed that programs in their jurisdiction had been particularly successful. Many were especially proud of their mediators and mediation training, and of their success in providing restitution, lowering recidivism, providing an alternative to incarceration or keeping the juvenile out of the juvenile justice system, making the victim whole, and holding the offender accountable. Although some respondents cited problems with courts or other agencies, several indicated that they had established good rapport. "Our relationship with the State agencies is very good and they trust us; we do what we say we will do," and "We have 100-percent support from the juvenile court—they want our program."

Several respondents believed that they had been most successful in areas of community relations. "Victim-offender mediation does wonders for public relations in the communities it serves—also gives the victim some satisfaction that he/she took part in the criminal justice process. Involved victims get their questions answered. They pass their beneficial experience on to others."

SUMMARY AND CONCLUSIONS

As a whole, mediation programs appeared fairly widespread across the country and were functioning well. They were most often governed by private or nonprofit organizations, and they received referrals primarily from the court or probation/intake officials. Less than half had conducted a program evaluation. The majority of mediators were paid program staff, and almost all programs used mediator training. Final contracts most often involved monetary restitution to the victim; and in most cases, this was monitored. Mediation programs generally received a high level of support from both the community and from officials working with

juveniles, and financial support came largely from local, State, and Federal grants or allocations.

Respondents working with mediation strongly favored the concept and philosophy, and they considered their own programs to be highly successful. Respondents involved with programs differed from nonprogram respondents in their approach to dispositional alternatives. The former viewed mediation more favorably than the latter, but respondents with programs took a more negative position regarding both probation and incarceration. This might indicate that working with mediation and observing victim and offender reactions could alter perceptions not only of mediation but of other correctional alternatives as well.

Although respondents without mediation programs were less positive in their assessment of the concept, their attitudes towards it were not negative. Moreover, the major reasons given for not using mediation were not opposition to such programs, lack of need, or disagreement with the basic philosophy, but insufficient staff and funding.

Some surveys revealed that some nonprogram respondents had a rather inadequate knowledge of what mediation involves. Some respondents started to complete the questionnaire as if they had a mediation component and then crossed out the answers. One individual almost finished all of the items (including those for programs) and then wrote, "I don't know what mediation is." This should probably be kept in mind for those who are initiating new programs.

Although these data reveal a more comprehensive picture of victim-offender mediation than was previously available, the information is still far from complete. Time and funding prohibited a comprehensive analysis of some of the information already collected. For example, Severy et al. (1982) reported using the availability of community support as a component for program evaluation. It would be valuable to compare information and to examine community support as it relates to some of the other variables, such as administration, program referrals, population and program size, age of program, and particularly to program satisfaction and the effectiveness of dispositional alternatives.

Another worthwhile study would be a more indepth analysis of a select few programs that differ in such areas as administration, source of funding, target population, or mediator training. This would also add to the pool of knowledge being accumulated about effective mediation. Because busy program personnel have limited time to assign to survey completion, questionnaires eliciting a fairly large response rate cannot address all relevant issues. Surveys of a few selected programs, however, could be conducted differently and gain different kinds of information. Additional data could be gathered on such items as characteristics of both offenders and victims referred, the proportion of victims participating, reasons for nonparticipation by both victims and offenders, and a more comprehensive assessment of the kinds of crimes and offenders accepted.

Victim-offender mediation, although a fairly recent addition to the juvenile justice system, appears to be well received and rather widely used throughout the United States. Following the progress of this dispositional alternative as it becomes more firmly established in dealing with juvenile offenders and returning some measure of satisfaction to victims should prove worthwhile.

NOTES

1. The sample was derived from a national sample of jurisdictions gathered for a current RESTTA project, from a directory of juvenile restitution programs (Warner and Burke 1987), and from the VORP Program Directory (Gehm 1986).

2. All organizations known to have a victim-offender mediation component (from the VORP directory) or indicating so on the restitution directory questionnaire were included (N=171); and as a comparison group, 180 organizations were selected at random from the remainder of the list. Followup post cards were mailed and attempts then made to contact all nonrespondents by telephone. Telephone calling revealed nine respondents who were no longer listed, and these were eliminated from the final count.

3. Responses were almost evenly distributed between those thought to use mediation and the comparison group; however, a number of respondents in the mediation group

indicated that they had no such program. A possible reason for this is that an earlier, positive answer to the original restitution survey was reconsidered when the respondent was confronted with definitive program statements.

4. Questionnaire items for the section on support for the mediation program were derived from a research project by Severy et al. (1982).

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